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CITY OF SAN JOSE
PLANNING DIVISION

June 30, 2005

Darryl Boyd, Principal Planner
San Jose Planning Department
City of San Jose
801 N. First Street
San Jose, CA 95110-1704

Re: Comments on the Scope of the EIR for San Jose's Coyote Valley Specific Plan (CVSP)

Dear Mr. Boyd:

Thank you for providing the Local Agency Formation Commission of Santa Clara County (LAFCO) with the opportunity to provide input on the scope and content of environmental information to be addressed in the Environmental Impact Report (EIR) for the Coyote Valley Specific Plan.

The current scoping and preparation period for the Draft Environmental Impact Report provides an opportunity for LAFCO to inform the City about the issues that LAFCO will be considering as part of the Urban Service Area amendment and annexation process. LAFCO provides these preliminary comments to the City at this time, so that the City can consider them during the fiscal and environmental impacts analysis process and address them in the Coyote Valley Specific Plan.

BACKGROUND

LAFCO staff has been attending the Coyote Valley Specific Plan community workshops and participating on the CVSP Technical Advisory Committee in order to stay informed about the development of the specific plan and to provide input where appropriate.

According to City staff:

- The City Council is tentatively expected to consider adopting the CVSP in Spring 2006. Once the CVSP is adopted, the City then plans to apply to LAFCO to expand its Urban Service Area boundary and to annex the mid-Coyote Urban Reserve in Winter 2006,

- The City will be preparing an Environmental Impact Report (EIR) for the CVSP and expects to start the scoping and preparation of the Draft Environmental Impact Report (DEIR) for CVSP this summer (June 2005), and to circulate the DEIR for public review and comment in Fall 2005, and
- The City also plans to use the CVSP Final EIR when they apply to LAFCO for an Urban Service Area amendment and annexation.

In October 2004, the Local Agency Formation Commission of Santa Clara County (LAFCO) provided preliminary comments to the City of San Jose regarding the issues that LAFCO will consider during the urban service area amendment and annexation process for Coyote Valley. We request that the EIR for the Coyote Valley Specific Plan address the following issues in anticipation of the City's request to expand its Urban Service Area Boundary in order to implement the Coyote Valley Specific Plan:

ISSUES OF CONCERN TO LAFCO BASED ON PRELIMINARY REVIEW

Project's Consistency With LAFCO's Objectives

As part of the USA and annexation review process, LAFCO staff will be evaluating whether the project is consistent with LAFCO's four primary objectives. These objectives are as follows:

- Encourage the orderly formation of local governmental agencies,
- Preserve agricultural land and open space resources,
- Discourage urban sprawl, and
- Encourage the efficient provision of services.

LAFCO of Santa Clara County has adopted local policies based on the above objectives. Furthermore, LAFCO has adopted specific policies for Urban Service Area (USA) amendments and annexations (See Attachment A). The following comments are in light of LAFCO's Urban Service Area amendment policies:

Loss of Agricultural Lands and City's Plans for Mitigating That Loss

Development of the Coyote Valley will result in the conversion of thousands of acres of prime agricultural land. LAFCO policies discourage USA expansions that include agricultural and open space land. LAFCO strongly encourages the city to develop effective mitigation measures to address the loss of the agricultural and open space lands. As part of the USA amendment process, LAFCO will require an explanation of why the inclusion of agricultural and open space lands is necessary and how the loss of such lands will be mitigated.

LAFCO's policies state that mitigation measures could include, but are not limited to: the acquisition and dedication of farmland, development rights, open space and conservation easements to permanently protect adjacent and other agricultural lands within the county, participation in other development programs such as transfer or purchase of development rights, payments to recognized government and non-profit organizations for such purposes, and establishment of buffers to shield agricultural operations from the effects of development.

Evidence That An Adequate Water Supply is Available to USA Amendment Area

City staff has indicated that discussions are occurring between the City and potential water suppliers to determine water supply options for the CVSP. LAFCO will require evidence that an adequate water supply is available to the amendment area and that water proposed to be provided to the new area does not include supplies needed for unserved properties already within the city, the city's Urban Service Area or other properties already committed for city water services.

Addressing Local and Regional Impacts of Proposed USA Amendment

LAFCO will consider factors included in Government Code section 56668 as well as factors such as the following to determine the local and regional impacts of a proposed USA amendment:

- The ratio of lands planned for residential use to lands planned for employment-producing use;
- The existence of adequate regional and local transportation capabilities to support the planned city growth;
- The ability of the city to provide urban services to the growth areas (both lands within the city, as well as lands within San Jose's USA boundary) without detracting from current service levels; and
- The project's fiscal impact on schools and the ability of school districts to provide school facilities.

Addressing Affordable Housing Needs as Part of the CVSP

LAFCO will discourage proposals that undermine regional housing needs plans, reduce affordable housing stock, or propose additional urbanization without attention to affordable housing needs. LAFCO will specifically consider whether the proposal creates conditions that promote local and regional policies and programs intended to remove or minimize impediments to fair housing including:

- City/County General Plan Housing Elements,

- Analysis of Impediments to Fair Housing,
- Consolidated Plans for Housing and Community Development, and
- ABAG's regional housing needs assessment and related policies.

City's Inventory of Vacant Lands Within its Urban Service Area

LAFCO will require current information on the amount of vacant lands located in San Jose's Urban Service Area. If a city has a substantial supply of vacant land within its Urban Service Area and applies for an USA expansion, LAFCO will require an explanation of why the expansion is necessary, why infill development is not undertaken first, and how an orderly, efficient growth pattern, consistent with LAFCO mandates, will be maintained.

City's Efforts to Annex Urban Unincorporated Islands Existing With Their Current USA

In February 2005, LAFCO adopted a set of Island Annexation Policies indicating that cities should annex urban unincorporated islands existing within their current USAs (urban service areas), before seeking to add new lands to their USAs (see Attachment B, specifically Policies #5 and #6). We request that the City address this new set of policies as part of the environmental analysis process as well as all applicable LAFCO policies.

LAFCO WILL CONTINUE TO PROVIDE INPUT WHERE APPROPRIATE

LAFCO staff will continue to attend the Coyote Valley Specific Plan community workshops and participate on the CVSP Technical Advisory Committee in order to stay informed and to provide input where appropriate. If you have any questions regarding these comments, you can reach me at (408) 299-5127 or contact Dunia Noel, LAFCO Analyst, at (408) 299-5148. Thank you.

Sincerely,



Neelima Palacherla, LAFCO Executive Officer
LAFCO of Santa Clara County

Cc: Coyote Valley Specific Plan Task Force
LAFCO Members

Attachment s

- A. LAFCO's Urban Service Area Amendment Policies
- B. LAFCO's Island Annexation Policies

URBAN SERVICE AREA POLICIES

A. General Guidelines

1. Review and amendment of Urban Service Area (USA) boundaries is the Commission's primary vehicle for encouraging orderly city growth.
2. LAFCO will review/amend a city's Urban Service Area once a year, if such review is desired by the city and initiated by city resolution and application. Until a city's application has been heard and acted upon by the Commission, no further Urban Service Area amendments will be accepted for filing from that city. LAFCO may make an exception to the once a year limitation upon Urban Service Area amendment requests where amendment is needed to carry out some special institutional development or activity that is in the public interest. Such exceptions shall not normally be extended in connection with proposed residential, commercial, or industrial development.
3. Within the Urban Service Areas, LAFCO does not review city annexations and reorganizations if the proposals are initiated by city resolution and meet certain conditions. State law gives cities in Santa Clara County the authority to approve such reorganizations.

B. Urban Service Area Amendment Policies

1. LAFCO will require application of an appropriate general plan designation to territory proposed for inclusion in an Urban Service Area.
2. LAFCO encourages contractual agreements and/or plans between the cities and the County which define:
 - a. Growth at the urban fringe; and
 - b. Potential new growth areas.
3. LAFCO will consider factors included in Government Code section 56668 as well as factors such as the following to determine the local and regional impacts of a proposed Urban Service Area amendment:
 - a. The ratio of lands planned for residential use to lands planned for employment-producing use
 - b. The existence of adequate regional and local transportation capabilities to support the planned city growth;

- c. Ability of the city to provide urban services to the growth areas without detracting from current service levels;
 - d. The ability of school districts to provide school facilities;
 - e. Whether the conversion of agricultural and other open space lands is premature, or if there are other areas into which to channel growth;
 - f. The role of special districts in providing services;
 - g. Environmental considerations which may apply;
 - h. The impacts of proposed city expansion upon the County as a provider of services;
 - i. Fiscal impacts on other agencies;
 - j. Regional housing needs;
 - k. Availability of adequate water supply; and
 - l. Consistency with city or county general and specific plans.
4. LAFCO will consider the applicable service reviews and discourage urban service area amendments that undermine adopted service review determinations or recommendations.
 5. When a city with a substantial supply of vacant land within its Urban Service Area applies for an Urban Service Area expansion, LAFCO will require an explanation of why the expansion is necessary, why infill development is not undertaken first, and how an orderly, efficient growth pattern, consistent with LAFCO mandates, will be maintained.
 6. The Commission will discourage Urban Service Area expansions which include agricultural or other open space land unless the city has accomplished one of the following:
 - a. Demonstrated to LAFCO that effective measures have been adopted for protecting the open space or agricultural status of the land. Such measures may include, but not limited to, the establishment of agricultural preserves pursuant to the California Land Conservation Act, the adoption of city/County use agreements or applicable specific plans, the implementation of clustering or transfer-of-development-rights policies; evidence of public acquisition; or
 - b. Demonstrated to LAFCO that conversion of such lands to other than open space uses is necessary to promote the planned, orderly, efficient development of the city.

7. The Commission will consider whether an Urban Service Area amendment leading to the conversion of agricultural or other open space land, will adversely affect the agricultural or open space resources of the County. Factors to be studied include, but are not limited to:
 - a. The agricultural significance of the amendment area relative to other agricultural lands in the region (soil, climate, water-related problems, parcel size, current land use, crop value, Williamson Act contracts, etc.)
 - b. The economic viability of use of the land for agriculture;
 - c. Whether public facilities, such as roads, would be extended through or adjacent to other agricultural lands in order to provide services to anticipated development in the amendment area or whether the public facilities would be sized or situated to impact other agricultural lands in the area
 - d. Whether the amendment area is adjacent to or surrounded by existing urban or residential development.
8. If an Urban Service Area proposal includes the conversion of open space lands or agricultural lands, LAFCO strongly encourages the city to develop effective mitigation measures to address the loss of the agricultural and open space lands. LAFCO will require an explanation of why the inclusion of agricultural and open space lands is necessary and how the loss of such lands will be mitigated.

Mitigation measures include, but are not limited to: the acquisition and dedication of farmland, development rights, open space and conservation easements to permanently protect adjacent and other agricultural lands within the county, participation in other development programs such as transfer or purchase of development rights, payments to recognized government and non-profit organizations for such purposes, and establishment of buffers to shield agricultural operations from the effects of development.
9. Where appropriate, LAFCO will consider adopted policies advocating maintenance of greenbelts or other open space around cities in reviewing Urban Service Area amendments.
10. LAFCO will require evidence that an adequate water supply is available to the amendment areas and that water proposed to be provided to new areas does not include supplies needed for unserved properties already within the city, the city's Urban Service Area or other properties already charged for city water services. In

determining water availability, LAFCO will evaluate, review and consider:

- a. The city's plan for water service to the area and statement of existing water supply in terms of number of service units available; service units currently allocated; number of service units within city (and current USA) boundaries that are anticipating future service and service units needed for amendment area.
 - b. Whether the city is able to provide adequate water supply to the amendment area in the next 5 years, including drought years, while reserving capacity for areas within the city and Urban Service Area that have not yet developed.
 - c. Whether the city is capable of providing adequate services when needed to areas already in the city, in the city's Urban Service Area or to other properties entitled to service.
 - d. If capacity is not reserved for unserved property within the city and its Urban Service Area boundary, the current estimate of potential unserved properties and related water supply needs
 - e. Whether additional infrastructure and or new water supplies are necessary to accommodate future development or increases in service demand. If so, whether plans, permits and financing plans are in place to ensure that infrastructure and supply are available when necessary including compliance with required administrative and legislated processes, such as CEQA review, CEQA mitigation monitoring plans, or State Water Resources Board allocation permits. If permits are not current or in process, or allocations approved, whether approval is expected.
 - f. Whether facilities or services comply with environmental and safety standards so as to permit acquisition, treatment, and distribution of necessary water.
11. LAFCO will discourage proposals that undermine regional housing needs plans, reduce affordable housing stock, or propose additional urbanization without attention to affordable housing needs. LAFCO will consider:
- a. Whether the proposal creates conditions that promote local and regional policies and programs intended to remove or minimize impediments to fair housing including city/ county general plan housing elements, Analysis of Impediments to Fair Housing or Consolidated Plans for Housing and Community Development and ABAG's regional housing needs assessment and related policies.

- b. Whether the proposal introduces urban uses into rural areas thus increasing the value of currently affordable rural area housing and reducing regional affordable housing supply.
- c. Whether the proposal directs growth away from agricultural / open space lands towards infill areas and encourages development of vacant land adjacent to existing urban areas thus decreasing infrastructure costs and potentially housing construction costs.
- d. Whether funding of infrastructure to support development in the amendment area imposes an unfair burden on residents or customers within the existing boundaries thus impacting housing construction costs in the area.

Island Annexation Policies

Effective February 9, 2005

1. In order to fulfill the intent of the state legislature and implement the joint urban development policies of the cities, County and LAFCO, and in the interests of efficient service provision and orderly growth and development, the cities should annex unincorporated urban islands.
2. LAFCO will collaborate with the cities and the County in facilitating annexation of unincorporated urban islands.
3. LAFCO will provide a 2-year LAFCO fee waiver for annexations that result in the elimination of entire unincorporated islands. The current LAFCO fee is \$670 for each annexation area. This fee waiver will expire on January 1, 2007.
4. Where feasible, and in furtherance of goals to support orderly growth and development, cities are encouraged to annex entire islands, rather than conducting single parcel annexations.
5. In the interests of orderly growth and development, cities should annex urban unincorporated islands existing within their current USAs (urban service areas), before seeking to add new lands to their USAs.
6. Prior to seeking any USA amendment, except if the USA amendment is to resolve a significant, demonstrable public health and safety issue or if the USA amendment is a minor corrective action, the city should:
 - a. Initiate and complete annexation proceedings pursuant to Government Code Section 56375.3(a)(1), for all unincorporated islands that meet the provisions of Government Code Section 56375.3, unless the island constitutes publicly owned land, and,
 - b. For any city that has unincorporated islands larger than 150 acres, the city is strongly encouraged to adopt an annexation plan for the islands after holding community meetings, to apply a pre-zoning designation and to adopt resolutions to initiate annexation.
7. LAFCO encourages the County to remove incentives for property owners in the unincorporated islands to remain in the County, by making development standards in the unincorporated islands comparable to development standards in the surrounding city.
8. LAFCO will provide information on the island annexation procedures to each of the cities. LAFCO will develop process flow charts and public hearing notice / resolution templates for cities to use. LAFCO staff will conduct workshops on island annexation process for city staff.
9. LAFCO will work with the County, the cities and other interested parties/agencies to find ways to reduce or share the cost of processing unincorporated island annexations.
10. LAFCO staff will report to the Commission at each LAFCO meeting on the status of each city's island annexation efforts.



DEPARTMENT OF CONSERVATION

DIVISION OF LAND RESOURCE PROTECTION

801 K STREET • MS 18-01 • SACRAMENTO, CALIFORNIA 95814

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June 30, 2005

VIA FACSIMILE (408) 277-3250

Darryl Boyd

San José Planning, Building and
Code Enforcement

801 North First Street, Room 400
San José, CA 95110-1795

Subject: Notice of Preparation (NOP) of a Draft Environmental Impact Report
(DEIR) for the Coyote Valley Specific Plan Project **SCH# 2005062017**

Dear Mr. Boyd:

The Department of Conservation's (Department) Division of Land Resource Protection (Division) monitors farmland conversion on a statewide basis and administers the California Land Conservation (Williamson) Act and other agricultural land conservation programs. The Division has reviewed the above NOP and has the following comments.

The project involves development of the Coyote Valley Specific Plan (SP) covering a 7,000-acre area south of the City of San José. The SP would provide for 50,000 jobs and 25,000 dwelling units within the specified areas. The SP also provides for permanent establishment of the Greenline/Urban Growth Boundary (greenbelt) between two portions of the SP area.

The NOP notes that implementation of the SP would result in the loss of Prime Farmland and Farmland of Statewide Importance and that the DEIR would address impacts associated with the loss of farmland and also identify feasible mitigation measures. Therefore, the Division recommends that the DEIR address the following items to provide a comprehensive discussion of potential impacts of the project on agricultural land and activities.

*The Department of Conservation's mission is to protect Californians and their environment by:
Protecting lives and property from earthquakes and landslides; Ensuring safe mining and oil and gas drilling;
Conserving California's farmland; and Saving energy and resources through recycling.*

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Agricultural Setting of the Project

- Location and extent of Prime Farmland, Farmland of Statewide Importance, and other types of farmland in and adjacent to the project area.
- Current and past agricultural use of the project area. Include data on the types of crops grown, and crop yields and farmgate sales values.
- To help describe the full agricultural resource value of the soils on the site, we recommend the use of economic multipliers to assess the total contribution of the site's potential or actual agricultural production to the local, regional and state economies. State and Federal agencies such as the UC Cooperative Extension Service and USDA are sources of economic multipliers.

Project Impacts on Agricultural Land

- Type, amount, and location of farmland conversion resulting directly from project implementation.
- Type, amount, and location of farmland conversion resulting indirectly from project implementation through growth inducement.
- Impacts on current and future agricultural operations; e.g., land-use conflicts, increases in land values and taxes, vandalism, etc.
- Incremental project impacts leading to cumulatively considerable impacts on agricultural land. This would include impacts from the proposed project as well as impacts from past, current and probable future projects.

Impacts on agricultural resources may also be quantified and qualified by use of established thresholds of significance (California Code of Regulations Section 15064.7). The Division has developed a California version of the USDA Land Evaluation and Site Assessment (LESA) Model, a semi-quantitative rating system for establishing the environmental significance of project-specific impacts on farmland. The model may also be used to rate the relative value of alternative project sites. The LESA Model is available on the Division's website listed on page 4.

Williamson Act Lands

A project is deemed to be of statewide, regional or area-wide significance if it will result in cancellation of a Williamson Act contract for a parcel of 100 or more acres [California Code of Regulations Section 15206(b)(3)]. If lands under Williamson Act contract exist on or adjacent to the project area, the

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Department recommends that the following information be provided in the DEIR:

- A map detailing the location of agricultural preserves and contracted land within each preserve. The DEIR should also tabulate the number of Williamson Act acres, according to land type (e.g., prime or non-prime agricultural land), which could be impacted directly or indirectly by the project.
- A discussion of Williamson Act contracts that may be terminated as part of SP implementation. The DEIR should discuss the impacts that termination of Williamson Act contracts would have on nearby properties also under contract; i.e., growth-inducing impacts (in the sense that the removal of contract protection not only lifts a barrier to development, but results in higher property taxes, and thus, an incentive to shift to a more intensive land use, such as urban development.)

As a general rule, land can be withdrawn from Williamson Act contract only through the nine-year nonrenewal process. Immediate termination via cancellation is reserved for "extraordinary", unforeseen situations (See Sierra Club v. City of Hayward (1981) 28 Cal.3d 840, 852-855). The City or County of jurisdiction must approve a request for contract cancellation, and base that approval on specific findings that are supported by substantial evidence (Government Code Section 51282). If Williamson Act contract cancellation is proposed, we recommend that a discussion of the findings be included in the DEIR. Finally, the notice of the hearing to approve the tentative cancellation, and a copy of the landowner's petition, must be mailed to the Director of the Department of Conservation ten (10) working days prior to the hearing. (The notice should be mailed to Debbie Sareeram, Interim Director, Department of Conservation, c/o Division of Land Resource Protection, 801 K Street MS 18-01, Sacramento, CA 95814-3528.)

- An agricultural preserve is a zone authorized by the Williamson Act, and established by the local government, to designate land qualified to be placed under the Act's 10-year contracts. Preserves are also intended to create a setting for contract-protected lands that is conducive to continuing agricultural use. Uses of agricultural preserve land must be restricted by zoning or other means so as not to be incompatible with the agricultural use of contracted land within the preserve (Government Code Section 51230). Therefore, the DEIR should also discuss any proposed general plan designation or zoning changes within agricultural preserves affected by the project.

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- The Williamson Act (Government Code Section 51243) requires cities annexing land under Williamson Act contract to succeed to all rights, duties and powers of the county under the contract unless conditions in Section 51243.5 apply to give the city the option to not succeed to the contract. A Local Agency Formation Commission (LAFCO) must notify the Department within 10 days of a city's proposal to annex land under contract (Government Code Section 56753.5). A LAFCO must not approve a change to a sphere of influence or annexation of contracted land to a city unless specified conditions apply (Government Code Sections 51296.3, 56426, 56426.5, 56749 and 56856.5).

Project Alternatives and Mitigation Measures

Feasible alternatives to the project's location or configuration that would lessen or avoid farmland conversion impacts should be considered in the environmental document. If there are no feasible project alternatives to avoid impacts on agricultural land, then mitigation measures should be considered.

One mitigation measure that should be considered is the purchase of agricultural conservation easements on land of at least equal quality and size as partial compensation for the direct loss of agricultural land, as well as for the mitigation of growth-inducing and cumulative impacts on agricultural land. We highlight this measure because of its growing acceptance and use by lead agencies as mitigation under the California Environmental Quality Act.

Mitigation using conservation easements can be implemented by at least two alternative approaches: the outright purchase of conservation easements tied to the project, or via the donation of mitigation fees to a local, regional or statewide organization or agency, including land trusts and conservancies, whose purpose includes the purchase, holding and maintenance of agricultural conservation easements. Whatever the approach, the conversion of agricultural land should be deemed an impact of at least regional significance and the search for mitigation lands conducted regionally, and not limited strictly to lands within the San José area.

Information about conservation easements is available on the Division's website, or by contacting the Division at the address and phone number listed below. The Department's website address is:

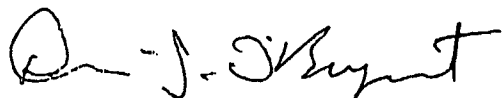
<http://www.conservation.ca.gov/DLRP/>

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Of course, the use of conservation easements is only one form of mitigation that should be considered. Any other feasible mitigation measures should also be considered.

Thank you for the opportunity to comment on the NOP. If you have questions on our comments, or require technical assistance or information on agricultural land conservation, please contact the Division at 801 K Street, MS 18-01, Sacramento, California 95814; or, phone (916) 324-0850.

Sincerely,



Dennis J. O'Bryant
Acting Assistant Director

cc: Guadalupe-Coyote RCD
888 North First Street, #204
San José, CA 95112